IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7774 OF 2005

Ramdas Mondiram Shende ...Petitioner

Versus

The Chief Officer, Khopoli Municipal Council,
and Ors. ...
Respondents

Mr. B.D. Joshi with Mr. Ketkar for the Petitioner

Mr. P.S. Dani for the Interveners

Mr. P.M. Patil, Assistant Government Pleader,
for Respondents No. 2 and 3

Mr. L.C. Tolat for the Chief Officer, Khopoli Municipal Council,
Respondent No. 1.

CORAM: V.G. PALSHIKAR, Ag.C.J., &
D.B. BHOSALE, J.
DATE: NOVEMBER 14, 2005.

P.C.:-

1. By this petition, the petitioner, who is acting as President of the Municipal Council, Khopoli, by reason of a stay order passed by the Chief Minister, has impugned communication dated 7th November, 2005 issued by the Collector, Raigad,

convening a meeting of the Municipal Council, Khopoli, to consider the no confidence motion tabled by some councillors of that Municipal Council.

2. This communication is challenged on the ground that by another order passed earlier under Section 55-A of the Maharashtra Municipal Councils, Nagar Panchayats & Industrial Townships Act, 1965 (for short, “the Act”), the Government has already removed the President from office, and that order, though impugned, is stayed by the Appellate Authority, as a result of which, the petitioner continues to act as the President. It is not in dispute that the no confidence motion was moved by some of the Councillors, and the meeting is ordered to be held to consider that no confidence motion. The contention is that in view of the existence of order under Section 55-A, the power under Section 55 of the Act cannot be invoked. We are unable to accept this contention for the simple reason that Section 55 and Section 55-A provide two different remedies for removal of a President or a Vice President. One remedy, viz., the provision of Section 55-A, empowers the Government to

remove a President for acts of misconduct mentioned in this section, whereas power is also given to the legitimate councillors by Section 55 to exercise their right of no confidence in the President. This power of the councillors is an independent, statutory power unconnected with the power of removal under Section 55-A of the Act.

3. The petitioner, having succeeded in obtaining stay of the order under Section 55-A of the Act, is now seeking to stall another democratic process provided by Section 55 of the Act. Writ jurisdiction, in our opinion, need not be exercised to thwart a democratic process of no confidence. We, therefore, see no reason to interfere. The petition is dismissed.